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In re Application of
CHORLEY et al.
U.S. Application No. 09/529,771
PCT No.: PCT/IB98/00999
Int. Filing Date: 29 June 1999
Priority Date: 30 June 1998
Attorney Docket No.: MSI-27
For: SECURITY THREAD

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on applicant's "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 19 April 2000 in the above-captioned application. The petition fee has been submitted.

BACKGROUND

On 29 June 1999, applicant filed international application PCT/IB98/00999 which designated the United States. A proper Demand was not filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 20 months from the priority date, or at midnight on 01 March 2000.

On 19 April 2000, applicant filed a transmittal letter requesting entry into the national stage in the United States, which was accompanied, inter alia, by: the basic national fee, a copy of the international application; an unsigned declaration; and the present petition under 37 CFR 1.137(b) accompanied by the requisite petition fee.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the payment of the basic national fee of \$840.00.

As to Item (2), the appropriate petition fee of \$1210.00 as required by 37 CFR 1.17(m) was submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is GRANTED.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Missing Requirements (Form PCT/DO/EO/905), to inform applicant that an oath or declaration of the inventors in compliance with 37 CFR 1.497 along with a \$130.00 surcharge for the filing of an oath or declaration later than twenty months must be submitted in order to avoid abandonment of the application.



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